IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1295 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

S.I.MANDOVARA

Versus

SITARAM BABURAO SINDE

Appearance:

MR SURESH M SHAH for Petitioner

DELETED for Respondent No. 1

MR ST MEHTA APP for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 10/03/2000

ORAL JUDGEMENT

This application under Section 482 of the Code of Criminal Procedure prays to quash the proceedings of

Criminal Case No.611 of 1992 pending in the Court of the learned Judicial Magistrate, First Class at Ankleshwar. The original complainant was joined as respondent No.1 but has been subsequently deleted as a party under the order of this Court dated 10.2.1999 which was made on the ground that his address and his whereabouts were not available with the petitioner.

2. Going through the complaint, it appears that the original complainant had left his earlier service and joined the services of the company where the petitioner was an officer. Thereafter, his service came to be terminated by the company and, being aggrieved by such termination, the complainant had filed the complaint stating that initially the petitioner had inspired false hopes and confidence in him because of which he had left the earlier service.

3. The learned advocate appearing for the petitioner submits that the action of discharging the complainant from service was taken by the employer company and there was no question of the petitioner having fraudulently or dishonestly induced the complainant insofar as he was initially employed by the company. However, the subsequent termination of his service was by the employer company and the petitioner had nothing to do with that. It is further submitted that the complaint as well as the statement recorded thereunder do not disclose the essential ingredients of the offences under Sections 417 and 420 of the Indian Penal Code. It is also submitted that, in reality, the grievance of the complainant was of a civil nature and proceeding under civil or labour laws was the appropriate remedy for the complainant, if at all, an illegal act was committed by the employer. The learned advocate has relied upon the observations of the Hon'ble Supreme Court in the case of G. SAGAR SURI v. STATE OF U.P. [2000 (1) SCALE 271].

4. Going through the record of the present application, it appears that the case under Section 417 or Section 420 of the Indian Penal Code is not made out in the complaint and no purpose can be served by proceeding further in the criminal case. Therefore, in the interest of justice, in the facts and circumstances, the application is allowed. The process and proceedings in Criminal Case No.611 of 1992 pending in the Court of the learned Judicial Magistrate, First Class at Ankleshwar are quashed. Rule is made absolute with no order as to costs.

Sd/-

(KMG Thilake)

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